

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ABDUL NASIR JIHAD,

Plaintiff,

v.

**Civil Action no. 2:07cv3
(Judge Maxwell)**

JOYCE FRANCIS,

Defendant.

**REPORT AND RECOMMENDATION
THAT CASE BE DISMISSED WITHOUT PREJUDICE**

On January 16, 2007, the *pro se* Plaintiff, Abdul Nasir Jihad, initiated this case by filing a civil rights complaint and a Motion for Leave to Proceed in forma pauperis. However, because the Motion did not provide the necessary information from which the Court could make a ruling the Clerk sent the Plaintiff a Notice of Deficient Pleading on that same date, which advised the Plaintiff that he must either pay the \$350.00 filing fee or submit a Consent to Collection of Fees and Prisoner Trust Account Report. The forms were sent to the Plaintiff with the Notice which specifically advised the Plaintiff that his failure to comply within 30 days could result in dismissal of his case without prejudice.

A review of the file shows that as of the date of this Opinion, Plaintiff has not filed the requested report, has not filed a motion to extend time to do so, or otherwise explained his reasons for noncompliance. Accordingly, it is the recommendation of the undersigned that the instant case be **DISMISSED** without prejudice for the failure to prosecute unless the Court hears to the contrary within ten (10) days from the date of this Order. Any pleadings, motions, letters or other documents filed in response to this Report and Recommendation should be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to this recommendation

will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* Plaintiff and counsel of record, as applicable.

DATED: May 8, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE